IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6456 OF 2004.

Naresh Ramappa Shetty. ... Petitioner.

Versus.

The Executive Officer, Pune Cantonment Board, Pune and another. ... Respondents.

Ms.Asha Bhambvani for the Petitioner.

Shri V.G.Mujumdar for the Respondent No.1.

CORAM : ABHAY S.OKA, J.

DATED : 8th March, 2007.

P.C.:

1. Heard the learned Advocates appearing for the parties. An application for temporary injunction filed by the Petitioner was allowed by the trial Court. In an Appeal preferred by the 1st Respondent, the Appellate Court has interfered and set aside the order of temporary injunction.

2. After having heard the learned Advocates appearing for the parties, I find that no case for interference is made out. The Appellate Court has observed that in another Civil Suit, the Petitioner has clearly admitted that the suit structure was an unauthorised construction. The learned Judge has also noted that apart from the said admission of the Petitioner, he had applied for regularisation of the suit structure and the said application has been rejected long back. Grant of temporary injunction is

always an equitable and discretionary. When there was admission on the part of the Petitioner that the structure was unauthorised, the learned Appellate Court was justified in refusing the equitable and discretionary relief in favour of the Petitioner. There is no merit in the petition and the same is rejected.

3. All contentions of the parties in the pending suit are expressly kept open.

4. The learned Advocate for the Petitioner prays that the ad-interim order passed earlier be extended for a reasonable period. The said request is opposed by the learned Advocate appearing for the Respondents No.1. Since the ad-interim relief is operating from the year 2001, the same will continue to operate for a period of six weeks from today.

Judge.